



## Town of Conway, Massachusetts

P.O. Box 240, Conway, MA 01341

Town Office: 32 Main St. · Town Hall: 5 Academy Hill Road

Phone 413-369-4235 · Fax 413-369-4237 [www.townofconway.com](http://www.townofconway.com)

### ZONING BOARD OF APPEALS – PETITION FOR VARIANCE

**Time for acting on this petition will not commence until you have completed all items on this petition and filed it with the Town Clerk, along with payment of \$250.00 for advertising and notifications.**

*ADDRESS OF PROPERTY AFFECTED:*

*PETITIONER:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact information (phone number and/or email address): \_\_\_\_\_

*OWNER (IF NOT THE SAME AS THE PETITIONER):*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact information (phone number and/or email address): \_\_\_\_\_

I, \_\_\_\_\_, owner of the property concerned, hereby appoint  
\_\_\_\_\_ (name of person appointed) to act as my agent for the purposes of  
submitting and processing this petition for a variance.

COMMONWEALTH OF MASSACHUSETTS - Franklin ss.

\_\_\_\_\_, 20\_\_

Then personally appeared the above named \_\_\_\_\_ and acknowledged  
the foregoing appointment instrument to be their free act and deed, before me.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My commission expires \_\_\_\_\_

*TITLE TO THE PROPERTY:*

The owner's title to the land that is the subject of this petition is derived from the deed/will/other of

\_\_\_\_\_, dated \_\_\_\_\_, and recorded in the Franklin Registry of  
Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_ on (recording date) \_\_\_\_\_.

*ASSESSORS' RECORDS:*

The land that is the subject of and is shown on the plan in this petition is located on Map \_\_\_\_\_, Lot \_\_\_\_\_ of the  
Assessors' records.

ZONING REQUIREMENTS:

The subject land is located in the \_\_\_\_\_ zoning district.

THE VARIANCE REQUEST

Relief/variance is requested from which Section(s) of the Zoning Bylaw? \_\_\_\_\_

Description of relief requested:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purpose of requesting relief (what do you want to do?):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***THE PLAN: Attach a separate sheet or draw here a detailed, scaled plan of the section of the property affected and everything within 200' of the requested relief site, showing the boundaries, all structures on this or abutting properties, public ways, any bodies of water, trees or permanent plantings, and the proposed changes for which variance is requested. Also attach a copy of the original Building Permit Application and its notice of denial.***

Scale: \_\_\_\_\_ Drawn by: \_\_\_\_\_ Date: \_\_\_\_\_

FINDINGS (whv/how does your petition qualify for variance in relation to these criteria?) Hardship - related to soil conditions, lot shape, topography:

Proposal will not be a substantial detriment to the public good:

Proposal will not nullify or substantially derogate from the intent and purpose of the ordinance by-law:

In your opinion, is it physically possible to accomplish this proposal on any other location on the property where it would comply with the zoning by-law? Please explain your answer.

\_\_\_\_\_  
Signature of Petitioner Date

\_\_\_\_\_ **Do not write below this line.** \_\_\_\_\_

Received by Town Clerk: Clerk's signature Date Time received

( ) **With application, payment of \$250.00 has been received for advertising and notifications.**

Received by Zoning Board of Appeals: \_\_\_\_\_

Date            Complete?    65 days        100 days

Site visit: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Posted: \_\_\_\_\_        Ads: \_\_\_\_\_

Rec'd check # \_\_\_\_\_ for \$ \_\_\_\_\_        Turned Payment over to Treasurer: \_\_\_\_\_

**NO ONE IS ENTITLED TO A VARIANCE**

Although each case should be analyzed on its own merits, the Courts rarely uphold the grant of a variance. The Courts have found that the following arguments related to hardship did **not support** the grant of a variance (Massachusetts Federation of Planning and Appeals Board 1960; Rev. 1969, 1973, 1988, 1997, 2004):

- *Frontage on two streets*
- *Split-zoned lot*
- *Undersized lot*
- *Only way to make profitable use of property*
- *Shortage of housing for large families*
- *Mistake in construction and too costly to raze structure that violates zoning*
- *Spent substantial money in building without a permit*
- *Pre-existing zoning violation*
- *Creation of nonconforming lot by division of land and conveyance of one lot to another person*
- *Other nonconforming uses or structures in neighborhood*
- *Property is located next to another district or use*
- *Neighborhood is changing*
- *Want to expand pre-existing, nonconforming use onto adjacent lot just purchased*
- *Was told could use property for a particular use*
- *Need access to business across residential property*
- *Rezoning*
- *Eminent domain taking to support use variance*
- *Lot is triangular shaped and has no frontage and thus a residential use should be permitted in an industrial zone*
- *Lot is undersized because it is located on a cul-de-sac*
- *The proposed use is desirable*
- *The proposed use will increase property taxes in the municipality*
- *Health of property owner*
- *Poor financial condition of property owner*